

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 499 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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JAYANTILAL P PARIKH

Versus

BABURAV B SINDHE

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Appearance:

MR RN SHAH for Petitioners

NOTICE SERVED for Respondent No. 1

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CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 25/08/2000

ORAL JUDGEMENT

List has been revised thrice but none appeared  
for the parties. As such, the judgements of the two  
courts below have been perused.

2 This is landlord's revision u/s 29(2) of the Bombay Rent Act against concurrent judgements and decrees of the two courts below.

3 The plaintiff-landlord filed a suit for eviction of the defendant-respondent from the suit accommodation. The landlord filed two rent suits nos.342/1976 and 344/1976 against the defendant-respondent. The grounds of eviction were that the premises was reasonably and bona fide required by the landlord-revisionist. The second ground was that tenant-respondent fell in arrears of rent from 20.7.1975 to 19.2.1976 which he did not pay despite service of notice of demand.

4 The suits were resisted by the respondent-defendant denying these allegations. He pleaded that the premises is not reasonably and bona fide required by the landlord and that in case decree for eviction is passed, the tenant will suffer greater hardship. A dispute of standard rent was also pleaded. He also pleaded that the notice is invalid.

5 The trial Court dismissed the suits observing that the tenant was not in arrears of rent exceeding six months nor he was unwilling to pay the arrears of rent. The trial Court further found that the requirement of the landlord for the disputed accommodation for himself is neither reasonable nor bona fide. It was further found that the notice is illegal and invalid. With these findings the suits were dismissed by the trial Court.

6 Appeal was preferred by the landlord which was also dismissed. Hence this revision.

7 After examining the judgements of the courts below, I find that it is a case of concurrent findings of fact recorded by the two Courts below regarding the bona fide and genuine requirement of the landlord. Both the courts below negated the case of the landlord that his requirement of the suit premises was reasonable, genuine and bona fide. Consequently, the question of comparison of hardship did not arise. Still the trial Court found that in case decree for eviction is passed, the tenant would suffer greater hardship. On the point of arrears of rent, both the Courts found from the evidence on record that the tenant was not unwilling to pay the rent. On the point of dispute regarding standard rent, the finding of the trial Court is that the standard rent should be fixed at Rs.15.50 per month inclusive of all taxes and electric charges. This finding was also confirmed by the lower appellate Court. As such, the

findings on disputed questions of fact are concluded by the concurrent findings recorded by both the Courts below. I do not find any reasonable ground for interference in this revision. Revision is accordingly dismissed. No order as to costs.

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(mohd)